IN THE HIGH COURT OF JUDICATURE AT BOMBAY
SIDE JURISDICTION
CRIMINAL APPLICATION NO.3722 OF 2006

The State of Maharashtra ...Applicant.
V/s.
Goldie Purshottam Sud ...Respondent.

Ms.R.M.Gadhvi, APP for the Applicant/State.

Mrs.Veena Thadani with Shri Vishal Thadani, advocates or the Respondent.

CORAM: J.H.BHATIA, J.
DATE : 28th February, 2007.

P.C.:

1. Heard Ms.Gadhvi, the learned APP for the State and Ms.Veena Thadani, the learned counsel for the respondent.

2. This is an application filed by the State for cancellation of anticipatory bail granted to the respondent by the learned Additional Sessions Judge, Greater Bombay in crime no.293 of 2006 registered at Khar Police Station by an order dated 21st July, 2006.

3. To state in brief, prosecution case is that the B.M.C. had taken an action for demolition of unauthorised structures on and by the sides of road and for that purpose, help of the police was also taken. On 19th July, 2006 when the B.M.C. staff reached the area,

the present applicant was instigating the shopkeepers of that area not to allow the B.M.C. staff to demolish their sheds. He also used unparliamentary language. Other co-accused had bamboo sticks and stones in their hands. They pelted stones and also assaulted with the sticks. Due to which one police officer and two staff members of the B.M.C. were injured. The offences under Sections 143, 144, 147, 148, 152, 332, 333, 427 read with Section 149 of the I.P.C. came to be registered. As the offence under Section 333 of the I.P.C. is non-bailable, the respondent made an application for anticipatory bail before the Sessions Court. The Sessions Court noted that firstly, the injured persons had suffered minor injuries. Secondly, none of the injured persons had stated in their statements that the present applicant had assaulted them and the presence of the present applicant at the spot of the incident itself is doubtful. With these observations, the learned Additional Sessions Judge granted anticipatory bail. I have perused medical certificates of all the three injured persons. They had suffered simple hurts. Not a single person had suffered any grievous hurt. Section 333 of the I.P.C. can be invoked only when a person voluntarily causes grievous hurt to deter public servant from discharging duty. That offence is punishable with imprisonment which may extend to 10 years and is

non-bailable. All other offences are bailable. As nobody had suffered any grievous hurt, Section 333 of I.P.C. could not be invoked and as such, the accused would be entitled to bail. By invoking Section 333 without any justification and reason, the police pushed the respondent to seek anticipatory bail for an offence which he had not committed. Taking into consideration all the circumstances, I find no fault with the impugned order.

4. Application stands rejected.

(J.H.Bhatia,J.)